




# CHARTER REVIEW COMMISSION

## AGENDA REQUEST

<b>AGENDA OF:</b>	<b>02-05-14</b>	<b>AGENDA REQUEST NO:</b>	<b>III-A</b>
<b>INITIATED BY:</b>	<b>CHRISTINE RANKIN EXECUTIVE SECRETARY</b>	<b>RESPONSIBLE DEPARTMENT:</b>	<b>CITY SECRETARY</b>
<b>PRESENTED BY:</b>	<b>GLENDA GUNDERMANN, CITY SECRETARY</b>	<b>DIRECTOR:</b>	<b>GLENDA GUNDERMANN, CITY SECRETARY</b> 
		<b>ADDITIONAL DIRECTOR (S):</b>	<b>N/A</b>
<b>SUBJECT / PROCEEDING:</b>	<b>MINUTES CHARTER REVIEW COMMISSION MEETING JANUARY 08, 2014 APPROVE MINUTES</b>		
<b>EXHIBITS:</b>	<b>MINUTES JANUARY 08, 2014</b>		
<b>CLEARANCES</b>		<b>APPROVAL</b>	
<b>LEGAL:</b>	<b>N/A</b>	<b>ASSISTANT CITY MANAGER:</b>	<b>N/A</b>
<b>PURCHASING:</b>	<b>N/A</b>	<b>ASSISTANT CITY MANAGER:</b>	<b>N/A</b>
<b>BUDGET:</b>	<b>N/A</b>	<b>CITY MANAGER:</b>	<b>N/A</b>
<b>BUDGET</b>			
<b>EXPENDITURE REQUIRED: \$</b>		<b>N/A</b>	
<b>CURRENT BUDGET: \$</b>		<b>N/A</b>	
<b>ADDITIONAL FUNDING: \$</b>		<b>N/A</b>	
<b>RECOMMENDED ACTION</b>			
Approve minutes of January 08, 2014 Charter Review Commission meeting.			
<b>EXHIBITS</b>			

STATE OF TEXAS §  
COUNTY OF FORT BEND §  
CITY OF SUGAR LAND §

**CITY OF SUGAR LAND  
CHARTER REVIEW COMMISSION  
WEDNESDAY, JANUARY 08, 2014**

**REGULAR MEETING**

The Charter Review Commission of the City of Sugar Land convened in a regular meeting open to the public and pursuant to notice thereof duly given in accordance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, as amended, in Sugar Land City Hall within said City on Wednesday, January 08, 2014 at 3:00 o'clock P.M. and the roll was called of the members; to wit:

William Little, Chairman  
Steven Weathered  
Robert Kern  
Jennifer Chiang  
Dennis Parmer

**QUORUM PRESENT**

All of said members were present except Jennifer Chiang who arrived at 3:30 p.m.

Also present were:  
Glenda Gundermann, City Secretary  
Mary Ann Powell, City Attorney

**CONVENE MEETING**

*Chairman William Little* convened the session, open to the public, to order at 4:02 o'clock P.M.

**PUBLIC COMMENTS**

*Chairman Little* introduced Public Comment stating that citizens desiring to address the Commission with regard to matters on the agenda would be received at this time.

There were no public comments.

**MINUTES**

*Chairman Little* introduced consideration of and action on approval of the minutes of the regular meeting of December 18, 2013.

Following a full and complete discussion, *Mr. Kern*, seconded by *Mr. Little*, made a motion to approve the minutes, as amended, of the regular meeting of December 18, 2013. The motion carried unanimously.

## PUBLIC HEARING

*Chairman Little* opened the Public Hearing to receive and hear all persons desiring to be heard on the City of Sugar Land Charter.

Hearing none, the Public Hearing was closed.

## CHARTER

*Chairman Little* introduced review of and discussion on City of Sugar Land Charter.

*Mr. Weathered*, who was not present for the December 18, 2013 meeting, confirmed consensus with the Commission on Section 3.04 and the use of 15% of registered voters not those that voted in the last election, and confirmed with the consensus that in the event of a tie vote, the measure would fail.

The Commission agreed that throughout the Charter, the terms, City Council, Mayor and Council require clarification. *Mr. Kern* stated that he would identify the sections where the language is inconsistent and provide for the Commission consideration at the next meeting.

### Section 1.06 Severability

The Commission agreed that the section was not clear. *Mr. Kern* stated that he would provide suggested clarifying language for consideration at the next meeting.

### Section 2.03 Term Limitations

Commission consensus is to recommend the Charter be amended to allow 3-three (3) year terms plus 1 year totaling 10 years.

The Charter does not specifically address; in 1999 charter proposition five amended the reference by using the word “**person**”; “Section 2.03, which provides for term limits that apply separately to the Mayor’s position, to the At Large Council positions, and to the District Council positions, be amended to provide that a **person** may not be elected in any city position more than four times in any consecutive nine year period; for purpose of the limitation the office of mayor is considered a separate office from other council positions”. Translation of the amendment was not written clearly in the charter. City of Sugar Land has historically considered the Mayor’s term limitation the same as City Council. The Commission consensus is that the Mayor term limitation should be the same as the City council. It was further noted that the Charter contains a provision, Section 2.05 (b), for the Mayor Pro Tem.

Throughout the Charter, there are references to “person” and “position”. The Commission agreed that the Charter should be revised to provide consistency. An example was used in which a District Council Member elects to run for an At Large Position or for Mayor. The term limitation would start over if elected to a different position.

<b>CHARTER (CONTINUED)</b>
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Section 2.06 Vacancies

Section 2.06(a) currently provides the process for appointment if the office of mayor becomes vacant and Section 2.06(b) provides the process for appointment if an office of council member becomes vacant.

The Commission consensus is that the section should be revised to provide for an appointment process to be used that is consistent with any changes made to term limitations.

Section 2.07 Powers and Duties of the Council

The Commission discussed adding language for investigations by City Council. Section 2.07 does not currently contain language to address "Investigation by City Council" as seen in Section 3.13 Investigation by the City Council of the Texas Home Rule Charters. Page 51 of the Texas Home Rule Charters addresses the sample powers of the City Council. Ordinance No. 1538 came from the work conducted by the Citizen Ethics Committee. The Ordinance is enacted and codified into the Code of Ordinances providing this power. The Commission agreed that with the Ordinance enacted, the Charter did not need to be amended.

The Commission discussed Council Members ability to place items on the Agenda. Resolution 13-17 states "The City Manager will include any item on the agenda if: 1) requested by the Mayor; 2) requested by a Council Member and the Mayor approves the request; or 3) requested by at least two Council Members.

Following each election, the City Manager, Mayor and City Council review all Council policies and amendments, if any, are made following that review.

Section 4.01 City Manager

The Commission discussed that City Council has all powers not assigned to others. (b)(1) ... was suggested to move to City Council. Discussion confirmed that the current City Manager has been granted certain authority by City Council and operates under that authority. Changes in City organization, for example, is discussed in City Council Executive Session prior to implementation. The Commission agreed that Section 4.01 (b)(1) should be moved under City Council and that authority can be delegated back to the City Manager if desired by City Council. This amendment would be consistent with the recommendation that City Council cannot interfere with the direct appointments of the City Manager.

Section 4.02 City Secretary; 4.03 City Attorney

Commission consensus is to recommend that the City Secretary and City Attorney report to the City Council.

Section 5.01 Planning and Zoning Commission

The Commission discussed that City Council, as a whole, makes appointments to the Planning and Zoning Commission. The Mayor, with City Council consensus, appoints the Chair and Vice Chair.

In September 2013, an Ordinance was passed to remove term limitation to all City Board and Commissions. The current Charter refers to two year terms and should be amended to reflect one year term with no term limitation. The exception is the Zoning Board of Adjustment which by State Statute, has two year terms. All Boards are reviewed annually.

<b>CHARTER REVIEW WITH CITY MANAGER AND CITY COUNCIL</b>
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**Allen Bogard, City Manager**

- Practitioner of Governance
- Considers the Charter as a guide of the City Manager job responsibilities
- Conduct City business with efficiency and perceived as business like displaying respect and cooperation which bring confidence to citizen and business community
- City Manager works for the majority of City Council
  - Ensure the City Council majority is satisfied with work product
    - Financing
    - Administration
  - Obtain consensus of City Council through
    - Facilitated retreats
    - Workshops
    - Committees

It has been stated that if Council were to meet longer and/or display debates about an issue that the outcomes could be different. It is through the City's method that majority consensus is obtained; the method has worked for the City of Sugar Land for many years. Staff works diligently to provide the Mayor and City Council with thorough information prior to the meeting.

The consensus of City Council is an empowered body not individual Council Members.

**Mr. Bogard** stated that he has no substantial concerns with the Charter. In reviewing the minutes from the Commission, he noted that there has been concern relative to the reporting relationships in the Executive area. **Mr. Bogard** commented that the current structure is working and noted that the current Charter establishes that City Council confirms the City Manager appointment of City Attorney and City Secretary. The process worked well during recent changes within the City Attorney office.

The Charter is supplemented by protocol and policies that are reviewed following each election and each is subject to review and amendment and clarification each year during facilitated retreats.

**Mr. Bogard** described communication devices that have been established:

- For Your Information memo is sent to Council each Friday
- Draft Agenda to Mayor on Wednesday; to Council on Thursday allowing any necessary discussion to take place prior to the Agenda posting on Friday
- On Friday the agenda and supporting material, is posted and available to the Public and Council

<b>CHARTER REVIEW WITH CITY MANAGER AND CITY COUNCIL (CONTINUED)</b>
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In closing, these procedures are not shown within the Charter but rather within policy allowing several days to review and discuss upcoming agendas; these are viewed as policy statement directions from the City Council.

**James Thompson, Mayor**

- Uses Charter and protocol as a guide which is in his possession at all times
- Relative to the City Secretary and City Attorney
  - Council is not good stewards of employees
    - Evaluations are difficult
  - Not opposed to having these positions report to City Council but need clear line of authority
- Term limitations
  - Supportive of three-3 year terms
    - Two years is too often and elections are expensive
    - Takes several years to learn role
- Will take recommendations of the Commission very seriously
- Strategic timing for Charter elections
  - Next city-wide election is May 2014
    - If Mayor and At Large positions are uncontested, then placing the Charter amendment on the ballot, by itself, is not recommended
      - Commission recommendation presentation to City Council is February 18, 2014
      - Last day to file for the May 2014 ballot is 5:00 p.m. on February 28, 2014
      - Last day to call an election is February 28, 2014
      - For a Charter amendment special election to be ordered for May 2014 there is a short window of time to process the information (from February 18<sup>th</sup> to February 28<sup>th</sup>).
    - In 2015, if the Single District Council Members run uncontested, then the next city-wide election is May 2016
      - If Charter amendment is placed on the 2015 ballot it is possible to have one or more Districts uncontested; election has potential of only voters from contested District voting on Charter amendments as in elections without contested candidates typically voters will not turn out.
      - The work of the Commission is not diminished by when the recommendations are placed on a ballot.
- Vacancy – Selection vs Election
  - Based on election cost and considering the Texas Constitutional Amendment passed in November 2013 the Mayor was asked if he had a preference relative to vacancies with 3-3 year terms and term limitations.
  - the Mayor stated that with an extended term remaining it would probably be better to fill the vacancy by special election within 120 days.

<b>CHARTER REVIEW WITH CITY MANAGER AND CITY COUNCIL (CONTINUED)</b>
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**Joe Zimmerman, Council Member at Large**

Section 1.02 Form of Government; agree that language needs to be clear and non-contradictory.

Section 2.01 Election and Term

- Two years is too short; agree with 3-3 year terms as it allows continuity and recognizes that some projects take time to see to completion
- Resign to run rule
  - Applies if a council member announces candidacy with at least one-year plus 30 days left on current term

Section 2.03 Term Limitations; agree with person vs position

Article III should be revised to be more clear enabling citizens to understand easily

- Percentages should be the same for Initiative, Referendum and Recall
  - Not having the percentage so low that a small number of citizens can pass something against a larger number and yet not so high that it is unattainable
  - Registered voter vs those that voted in the last election

Section 4.01 City Manager

- No issues with the current language or practices; recognize that the Charter should apply to both current and future leadership.
- Balance appears to be right. The City is a City Manager form of government and City Council acts similarly as a Board of Directors. The City Manager is hired by City Council and a mechanism is in place to deal with potential issues.

The Commission commented on potentially having the City Secretary and City Attorney report to City Council recognizing that each conduct business for the City as a whole. Attorney ethics creates a duty to report to City Council any actions that jeopardizes the City. The City Attorney represents the City, not the City Manager.

*Mr. Zimmerman* contrasted the ease to which the City Manager can be evaluated, due to day to day interactions with the position, in contrast evaluating positions such as the Municipal Court Judge and if approved the City Attorney and City Secretary with no substantial interaction.

**Amy Mitchell, Council Member District Three**

Section 1.02 Form of Government

- Charter language needs to be concise and clear verbiage.
- Requested the Commission clarify the meaning of “weak form of charter due to delegation of a lot of authority and responsibility to the City Manager”. The Commission stated it was a comment made to suggest whether consideration of City Council power should be broadened and strengthened to ensure City Council priorities vs City Manager priorities.

CHARTER REVIEW WITH CITY MANAGER AND CITY COUNCIL (CONTINUED)
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**Amy Mitchell, Council Member District Three Continued)**

Section 2.03 Term Limitations

- Agree with changing term limitation to 3-three year terms and requested that the Commission come to City Council with a recommendation.
- Term limitation for the Mayor should be the same as City Council.
- Three year terms will help stagger tenures and provide additional continuity.

Section 2.06 Vacancies; agree with cleanup if Section 2.03 is amended

Section 2.07 Powers and Duties of Council; agree with Commission comments

Article III Initiative, Referendum and Recall

- Current language is confusing; clear language is needed.
- Agree with changing the percentages to 15% of registered voters and the same percentage for all three.

The Commission confirmed that consideration is being given to balance a percentage that is too low and a percentage that is not obtainable.

Section 4.01 City Manager; 4.02 City Secretary; 4.03 City Attorney

- Concern relative to City Attorney ethics. An attorney cannot be responsible to the City Manager and to the City.
- Amendments proposed are considering future not the current administration.

**Ms. Mitchell** expressed a preference to place the Charter Amendment on the ballot sooner rather than later; stating she understood the rationale in each of the options. Placing the amendment on the May 2016 election would have the maximum number of voters deciding the future of the City.

**Mr. Parmer** brought up calling a special election pointing out that term limitation changes would allow the election funds not used for the general election to be used for a special election. **Ms. Gundermann** commented that the rationale of not placing the Charter amendment on a Special Election ballot is that the voter turnout would be expected to be very low because there would be nothing else on the ballot. **Mr. Parmer** stated that there is never going to be an ideal time to have the Charter Amendment on a ballot.

**Ms. Mitchell** questioned whether changing the City Secretary reporting was really necessary; the Commission commented that other Charters have such provision. **Ms. Mitchell** questioned whether the Commission had considered adding language to provide for an Assistant City Manager when the City Manager is not available. It has been the City's practice to do so, but questioned whether the Charter should contain supporting language.



**Amy Mitchell, Council Member District Three Continued)**

*Ms. Mitchell* commented that she would like to have the ability to speak with other staff members, who work daily with the City Manager, when evaluating the City Manager. This is conducted when evaluating the Municipal Judge and is quite helpful to the evaluation process.

**Bridget Yeung, Council Member District Two**

- Agree with three 3 year terms
- Agree with term limitations referring to positions vs person
- Agree with 15% of registered voters
- Recommends strict guidelines relative to City Manager power and look to the future and what is in the best interest of the City of Sugar Land

**Himesh Gandhi, Council Member at Large**

- Agree with three 3 year terms
- Agree with 15% of registered voters
- Agree with having the City Attorney and City Secretary reporting to City Council and believe that effective evaluations can take place.

**Steve Porter, Council Member District One**

*Mr. Porter* submitted his comments in writing. *Ms. Gundermann* provided the Commission members with a copy.

- Section 2.02
  - would be in favor of requiring elected officials to reside in the City while serving, not just for the year prior to election
- Section 2.03
  - given the likely and very invasive financial reporting requirements that will come when the City population passes 100K, which will be a disincentive for qualified citizens to serve, he supports extending the term of office beyond 2 years. 2 terms of 4 years each seems to allow a larger impact after a big learning curve
- Article III
  - need to clarify the intention of the sections that caused the most consternation of the red light camera petitions validity

**Harish Jajoo, Council Member District Four**

*Mr. Jajoo* submitted his comments in writing. *Ms. Gundermann* provided the Commission members with a copy.

- Agree the Charter needs to be clear, concise and non-contradictory
- Would like to have examples of what powers should be re-delegated to City Council
- Would like to have discussion relative to Section 2.01 Election and Term
- Section 3.02 Requirements of All Petitions
  - Questioned why it is necessary to require 5 registered voters to serve as Committee of the Petitioners
    - control who is soliciting signatures and provide validity

CHARTER REVIEW WITH CITY MANAGER AND CITY COUNCIL (CONTINUED)
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**Harish Jajoo, Council Member District Four (Continued)**

- The petition failed to both the lack of clarity in the Charter and the failure of the petitioners to understand the requirement
- It is important that petition requirements are consistent, clear and simple for our residents to understand. Petitions should not be an undue burden; should mirror State requirements
  - The Commission discussed the State requirements being a number of required signatures and that all signatures are obtained within 180 days of the first signature. Other petition requirements are not provided in the State requirements, Election Code or Local Government Code.
- Section 3.04 Petition Signatures
  - Agrees percentages should not be unrealistic
  - Should be based on last election voters and not total voters in the City or District
- Section 4.01 City Manager
  - Need further information and clarification
- Section 4.02 City Secretary/ Section 4.03 City Attorney
  - Current system has advantages

ADJOURN
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In closing and in light of the amendment not being placed on the May 2014 ballot, the Commission discussed the meeting schedule. The schedule should remain; requires recommendation be completed by February 18, 2014. The next meeting schedule is:

- January 15, 2014
- January 22, 2014
- February 05, 2014
- February 12, 2014

There, being no further business to come before the Commission, ***Mr. Kern*** seconded by ***Mr. Weathered***, moved that the meeting adjourn. The motion carried unanimously and the meeting adjourned, time 5:55 o'clock P.M.

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William Little, Chairman

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Glenda Gundermann, City Secretary

(SEAL)